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September 19, 2016

Hon. Naomi Reice Buchwald United States Courthouse Southern District of New York 500 Pearl St. New York, New York 10007

## VIA ECF AND FACSIMILE TO (212)805-7927

Re: Adar Bays, LLC v. 5BARZ International, Inc. 16-cv-6231 (NRB)

Dear Judge Buchwald:

This firm represents Adar Bays, LLC ("Adar" or "Plaintiff"), plaintiff in the above-captioned action. I write to update the Court regarding Defendant, 5Barz International, Inc.'s ("BARZ" or "Defendant") unwillingness to engage in meaningful settlement discussions, and to respectfully request that the Court proceed with Plaintiff's motion.

During a telephone conference with the Court on September 8, 2016, the Court directed the parties to make a good faith effort to discuss settlement of this matter before proceeding with Plaintiff's motion. Instead of engaging in settlement discussions, Defendant filed two letters with the Court, the first requesting the appointment of a mediator, and the second attempting to oppose Plaintiff's motion. Plaintiff filed a letter expressing its concerns about the length of time of the mediation process. On September 15, 2016, the Court again directed the parties to discuss the possibility of settlement, and reminded the parties of the potential to have a Magistrate Judge mediate settlement discussions, then requested that the parties update the Court today.

Since the September 8, 2016 telephone conference, Plaintiff has sought to discuss settlement with Defendant. On numerous occasions, Plaintiff has asked

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Defendant's counsel to discuss over the phone or in person, but Defendant will not engage in discussions. Instead, Defendant first attempted to force Plaintiff into mediation and now refuses to respond to Plaintiff's settlement proposal without first going before a Magistrate Judge.

Despite Plaintiff's willingness to engage in settlement discussions, it is clear that Defendant is not equally willing, and is instead seeking to delay this matter at every step along the way. Accordingly, Plaintiff respectfully requests that the Court direct Defendant to file its opposition to Plaintiff's outstanding motion, or otherwise rule on the motion, to avoid further delay.

Respectfully s	submitted,
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/s/ Kevin Kehrli